

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X
ALDO VERA, JR., as Personal Representative of
the Estate of Aldo Vera, Sr.,

Plaintiff,

v.

THE REPUBLIC OF CUBA,

Defendant,

v.

RBS CITIZENS, N.A.,

Garnishee.
-----X

12 Civ. 1596 (AKH)
ECF CASE

**RBS CITIZENS, N.A.'S REPLY MEMORANDUM OF LAW IN SUPPORT OF ITS
MOTION FOR A STAY**

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RBS Citizens, N.A. ("Citizens") respectfully submits this reply memorandum of law in further support of its cross-motion for a stay (Docket No. 110) of the turnover petition filed by plaintiff Aldo Vera, Jr. against Citizens (Docket No 62). For this reply, Citizens adopts and incorporates by reference the arguments and authorities advanced by Intesa Sanpaolo S.P.A. ("Intesa") in the reply papers Intesa submitted in support of its motion for a stay of the nearly identical turnover motion that plaintiff filed against Intesa. Intesa's reply memorandum of law is located at Docket No. 177. There is no need to repeat the arguments here. Intesa's papers make clear that plaintiff's turnover motion should (for everyone's benefit) be stayed pending a determination of the dispositive issues currently before the United States Court of Appeals for the Second Circuit in *Calderon-Cardona v. JPMorgan Chase Bank, N.A.*, No. 12-75, and *Hausler v. JPMorgan Chase, N.A.*, Nos. 12-1264 and 12-1272.


In addition, Citizens notes the following. When the Court informed Citizens that Citizens would need to file a motion in order to obtain a stay, the Court indicated that the motion would determine whether plaintiff's position would be prejudiced by a stay. (*See* Docket No. 80.) The Court will search plaintiff's opposition memorandum (Docket No. 157) in vain for any explanation by plaintiff of what the prejudice to plaintiff will be if the turnover motion is stayed pending the Second Circuit appeals. There is no such prejudice, as there is no dispute that Plaintiff's "place in line" is protected by the writ of execution it served on Citizens.

This raises an inference that plaintiff's counsel is resisting the stay in an effort to take as much money as possible before either (a) the Second Circuit makes clear that the money is not the property of Cuba or any Cuban instrumentality (and thus not available for satisfaction of plaintiff's judgment) or (b) plaintiff's judgment is declared invalid (for reasons that have been advanced by various interested parties), all in hopes that, when the situation is finally sorted out,

it will be too difficult or expensive for the other parties to the transactions -- and the Court -- to unwind the payments that have been made to plaintiff in satisfaction of its judgment.¹ If this is indeed the case, it does not seem appropriate to Citizens.

For the foregoing reasons, Citizens respectfully requests that the Court grant its cross-motion for a stay.

Dated: Stamford, Connecticut
April 11, 2013

By: 
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¹ If no stay is granted, plaintiff's turnover motion should be denied for the procedural and substantive reasons articulated in Citizens' opposition to the motion (Docket Nos. 111-112), which relies on Intesa's opposition to the turnover motion against Intesa (Docket Nos. 87-89).